

117
the second input device comprises a device such that a user inputs information via the second input device using a physical action other than a hand motion.

REMARKS/ARGUMENTS

In the Examiner's Office Action mailed May 20, 2003, claims 1-20 were rejected. Claims 1 and 2 were rejected under 35 U.S.C. §102(b) as being anticipated by *Harp, Jr.* (U.S. 5,585,612). Claims 3-10 were rejected under 35 U.S.C. §103(a) as being unpatentable under *Harp, Jr.* interview of *McClure, et al.* (U.S. 6,250,548). Claims 11-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Harp, Jr.* in view of *McClure, et al.* in further view of *Sarner, et al.* (U.S. 5,666,765) in further view of *Trotta, et al.* (U.S. 5,072,999). Applicant respectfully submits that *Harp, Jr.*, alone and in combination with the other cited references, does not disclose or render obvious Applicant's invention as claimed in claims 1-20. In rejecting claims 1-20, the Examiner cited *Harp, Jr.* as disclosing both a first input device wherein the user inputs information via a first physical action and a second input device wherein the user inputs information via a second physical action. Applicant respectfully submits that *Harp, Jr.* does not teach the use of both a first device and second input device in a single voting apparatus. In particular, *Harp, Jr.* explains that "[t]he present voting machine may comprise an electronic voting machine or a paper ballot voting machine." Col. 2, lines 56-57 (emphasis added). In the case of an electronic voting machine, *Harp, Jr.* explains that the "machine is equipped with a field of electronic switches." Col. 2, lines 58-59. *Harp, Jr.* makes clear that the use of its teachings with a paper voting machine is a completely separate embodiment, explaining that "[a]lternatively, in a paper ballot voting machine the voting means may be a field of punch guides for guiding a punch through a punch ballot. Still further voting means may be a field of marker guides for guiding a marker to a proper position on a paper ballot to record a vote."

Col. 2, line 64-Col. 3, line 1 (emphasis added). *Harp, Jr.* carries the distinction between an electronic voting machine and a paper ballot voting machine throughout. In particular, *Harp, Jr.* explains that FIG. 1 therein shows “a *first* embodiment in the present invention in the form of an electronic voting machine 10.” Col. 4, lines 3-5. *Harp, Jr.*, later describes an alternative embodiment using paper ballots, stating that as “shown in FIG. 3, the same principles of the present invention may be applied to allow an illiterate, sight impaired or blind individual to vote on a paper ballot voting machine 10’ *whether* utilizing a punch ballot through which holes are made with a punch *or* a marked ballot on which marks are marked with a marker.” Col. 6, lines 4-9 (emphasis added). *Harp, Jr.* makes clear that the use of switches is limited to an electronic voting machine, while the use of *either* a punch or a marker is limited to use with a paper ballot voting machine. *Harp, Jr.* does not, for example, disclose the use of switches with another input device in a single voting machine. Nor does *Harp, Jr.* disclose the use of either a punch or a marker with another input device in a single voting machine. Moreover, *Harp, Jr.* makes clear that a paper ballot voting machine may use either a punch or a marker, but not both together. For this reason, *Harp* teaches the use of only a single input device with a voting apparatus. Because *Harp, Jr.* teaches the use of only a single input device with a voting apparatus, Applicant respectfully submits that all pending claims of the present application are allowable, as all pending claims require both a first input device and a second input device.

With regard to claim 1, the Examiner rejected claim 1 as anticipated by *Harp, Jr.* As explained above, while *Harp, Jr.* discloses the use of one of three similar input devices with a voting apparatus, *Harp, Jr.* does not disclose the use of a first input device and second input device in a single voting apparatus. Accordingly, Applicant respectfully submits that claim 1 should be allowed.

With reference to claim 2, the Examiner rejected claim 2 as anticipated by *Harp, Jr.* As explained above, Applicant respectfully submits that *Harp, Jr.* does not disclose the use of both a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 2 should be allowed.

The Examiner rejected claims 3-10 under 35 U.S.C. §103(a) as being unpatentable over *Harp, Jr.* in view of *McClure, et al.* With regard to claims 3-10, Applicant notes that *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. Accordingly, Applicant submits that claims 3-10 should be allowed.

With regard to claim 3 and claim 9, the Examiner stated that, while *Harp, Jr.* does not disclose that the storage and recording device may comprise a computer hard drive, *McClure, et al.* teaches that a voting device may use a computer hard drive as a storage and recording device for the convenience of the voter. It would be obvious to one of ordinary skill in the art to have to have combined the teaching of *Harp, Jr.* with the teaching of *McClure, et al.* As explained above, *Harp, Jr.* does not disclose the use of both a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 3 and claim 9 are allowable over the combination of *Harp, Jr.* and *McClure, et al.* Moreover, there is no specific motivation for the combination of *Harp, Jr.* and *McClure, et al.*, for which further reason Applicant respectfully requests the allowance of claim 3 and claim 9.

With regard to claim 4, the Examiner rejected claim 4 based upon the combination of *Harp, Jr.* and *McClure, et al.* As stated above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus, for which reason Applicant respectfully submits that claim 4 should be allowed. Moreover, Applicant

notes that neither *Harp, Jr.* nor *McClure, et al.* provide any specific motivation for their combination. For this further reason, Applicant respectfully requests the allowance of claim 4.

With regard to claim 5, the Examiner rejected claim 5 based upon the combination of *Harp, Jr.* and *McClure, et al.* As explained above, *Harp, Jr.* does not disclose the use of both a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 5 should be allowed. Moreover, Applicant notes that neither *Harp, Jr.* nor *McClure, et al.* provide any specific motivation for their combination. For this further reason, Applicant respectfully requests the allowance of claim 5.

With regard to claim 6, the Examiner rejected claim 6 based on *Harp, Jr.*, stating that *Harp, Jr.* discloses a first, second and third output device. However, *Harp, Jr.* does not disclose the use of both a first input device and a second input device in a single voting apparatus. Accordingly, Applicant respectfully submits that claim 6 should be allowed.

With regard to claim 7, the Examiner rejected claim 7 based on *Harp, Jr.*, stating that *Harp Jr.* discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses. As explained above, *Harp, Jr.* teaches the use of only a single input device with a voting apparatus, although *Harp, Jr.* does disclose three similar input ✓ devices (switches, punches, and markers) for use *individually* with various embodiments of a voting apparatus in accordance with *Harp, Jr.* Applicant respectfully submits that the use of the term “voting means” in *Harp, Jr.* may have caused Examiner some confusion in this regard. For example, the portions of *Harp, Jr.* cited by Examiner explain that through use of an audio presentation and tactile map “it is possible for each voting means of the voting machine to be identified for each election candidate and/or side of an election issue.” Col. 3, lines 14-17. It should be noted that a “voting means” as used in *Harp, Jr.* is not an input device, as required by

Applicant's claims. As described by *Harp, Jr.* a separate voting means corresponds to each candidate or side of an election issue. In particular, *Harp, Jr.* explains that "one voting means is provided for each candidate and/or side of an election issue." Col. 2, lines 19-20. As described by *Harp, Jr.*, each voting means is either the same voting device used at a different location on a paper ballot (such as a marker or a punch applied to the relevant section of a paper ballot) or a different but identical electronic switch located in a different portion of the voting apparatus. While *Harp, Jr.* does disclose the use of a plurality of such "voting means," *Harp, Jr.* does not disclose the use of more than a single input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 7 should be allowed.

With regard to claim 8, the Examiner advised Applicant that, should claim 7 be found to be allowable, claim 8 would be objected to under 37 CFR §1.75 as being a substantial duplicate thereof. Applicant respectfully submits that, as explained above, claim 7 is allowable. Applicant further respectfully submits that claim 8 is not a substantial duplicate of claim 7. In particular, claim 7 is directed to a voting apparatus comprising a first output device and a second output device and a first input device, a second input device, and a third input device. Claim 8, ✓ however, requires a first output device, a second output device, and a third output device and a first input device, a second input device, and a third input device. For this reason, claim 8 adds the additional element, as compared to claim 7, of a third output device. For this reason, Applicant respectfully submits that claim 7 and claim 8 do not cover the same thing, as a voting apparatus having only a first output device and a second output device would be covered by claim 7 but would not be covered by claim 8. For this reason, Applicant respectfully requests the allowance of claim 8.

With regard to claim 10, the Examiner stated that while *Harp, Jr.* does not specifically disclose that the recording device may comprise a printer, *McClure, et al.* does teach that a voting device may comprise a computer printer to produce a graphical ballot overlay and the subsequent ballot used for voter recordation. Applicant first respectfully notes that, as explained above, *Harp, Jr.* does not disclose the use of both a first input device and a second input device in a single voting apparatus and that, accordingly, claim 10 should be allowed. Applicant further notes that there is no specific motivation given by *Harp, Jr.* or *McClure, et al.* to combine them and that, for this further reason, claim 10 should be allowed.

The Examiner rejected claims 11-12 under 35 U.S.C. §103(a) as being unpatentable over *Harp, Jr.* in view of *McClure, et al.* in further view of *Sarner, et al.* in further view of *Trotta, et al.* With general regard to claims 11-20, as Applicant noted above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus, as required by claims 11-20. For this reason, Applicant respectfully requests the allowance of claims 11-20.

With regard to claim 11, Applicant respectfully submits that *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 11 should be allowed. Applicant further submits that *Harp, Jr.*, *McClure, et al.*, *Sarner, et al.*, and *Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant respectfully submits that claim 11 should be allowed.

With regard to claim 12, Applicant respectfully submits that *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 12 should be allowed. Furthermore,

Applicant notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant respectfully submits that claim 12 should be allowed.

With regard to claim 13, Applicant notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 13 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. Accordingly, Applicant respectfully submits that claim 13 should be allowed.

With regard to claim 14, Applicant notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 14 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this reason, Applicant respectfully submits that claim 14 should be allowed.

With regard to claim 15, Applicant notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 15 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant respectfully submits that claim 15 should be allowed.

With regard to claim 16, Applicant notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus.

For this reason, Applicant respectfully submits that claim 16 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant respectfully submits that claim 16 should be allowed.

With regard to claim 17, Applicant respectfully notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 17 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four documents. For this further reason, Applicant respectfully submits that claim 17 should be allowed.

With regard to claim 18, Applicant respectfully notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 18 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant respectfully submits that claim 18 should be allowed.

With regard to claim 19, Applicant respectfully notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 19 should be allowed. Applicant further notes that *Harp, Jr., McClure, et al., Sarner, et al., and Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant respectfully submits that claim 19 should be allowed.

With regard to claim 20, Applicant respectfully notes that, as explained above, *Harp, Jr.* does not disclose the use of a first input device and a second input device in a single voting apparatus. For this reason, Applicant respectfully submits that claim 20 should be allowed. Applicant further notes that *Harp, Jr.*, *McClure, et al.*, *Sarner, et al.*, and *Trotta, et al.* do not provide any specific motivation for the combination of these four references. For this further reason, Applicant further submits that claim 20 should be allowed.

In response to Applicant's arguments filed March 16, 2003, the Examiner concluded that, notwithstanding Applicant's arguments, the cited references utilized a first and second means for inputting a voting choice. As explained above, while the references cited by Examiner do teach the use of a variety of input means in a voting apparatus, none of the references cited by the Examiner teach the use of multiple input means with a single voting apparatus. With regard to Examiner's statement that "although Applicant points out that there must be a second physical means for inputting a voting choice from the voting apparatus, Applicant is silent as to the nature of that second means and does not address the third means," Applicant has added the additional three claims further describing possible attributes of a first input device, and a second input device in accordance with the present invention. Applicant notes, however, that the references cited by the Examiner do not disclose the use of a first input device and a second input device in a single voting apparatus, no matter what the first input device and the second input device may be. For this reason, Applicant respectfully submits that all pending claims in the present patent application should be allowed.

CONCLUSION

For the reasons stated above, Applicant respectfully submits that all pending claims all beloved to be in conditioned for allowance. Applicant respectfully requests the withdrawal of the pending rejections and the allowance of claims 1—23. The Examiner is invited to telephone the undersigned if he believes that an interview would advance the prosecution of the application.

Respectfully submitted,



John E. Gibson
Reg. No. 52,944

JEG/drb
SHOOK, HARDY & BACON L.L.P.
One Kansas City Place
1200 Main Street
Kansas City, Missouri 64105-2118
Phone: 816/474-6550
Fax: 816-421-5547